

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

IRON THUNDERHORSE §
VS. § CIVIL ACTION NO. 9:17cv196
BRYAN COLLIER, ET AL. §

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Iron Thunderhorse, an inmate confined within the Texas Department of Criminal Justice, Correctional Institution Division, proceeding *pro se*, filed this civil rights lawsuit. The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this court.

Plaintiff has filed a motion (doc. no. 3) seeking a temporary restraining order and preliminary injunction. The Magistrate Judge has submitted a Report and Recommendation of United States recommending the motion be denied as moot.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections. The court must therefore conduct a *de novo* review of the objections in light of the record and the applicable law.

The Magistrate Judge's recommendation was based on the fact that plaintiff is no longer incarcerated at the same unit he was when he filed his motion for preliminary injunctive relief. In his objections, plaintiff states he is being subjected to the same unconstitutional conditions of confinement at his new unit as he was at his old unit. However, the Magistrate Judge correctly concluded that plaintiff's transfer to a new unit, which is outside the territorial jurisdiction of this court, rendered his motion for preliminary injunctive relief moot. *Cooper v. Sheriff, Lubbock County*, 929 F.2d 1078, 1084 (5th Cir. 1991); *Sanchez v. Davis*, 735 F. App'x 172, 173 (5th Cir. 2018). Plaintiff is free to file a separate lawsuit concerning conditions at his new unit in the appropriate district court.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** as the opinion of the court. Plaintiff's motion for a temporary restraining order and preliminary injunction is **DENIED** as moot.

So **ORDERED** and **SIGNED** March 19, 2019.



Ron Clark, Senior District Judge